

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

BRIAN A. JEREMIAH,

Plaintiff,

No. 2:16-cv-00532-MK

v.

ORDER

MARK NOOTH, et al,
Defendants.

AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation filed by Magistrate Judge Mustafa Kasubhai. ECF No. 111. Judge Kasubhai recommends that Defendants' Motion for Summary Judgment, ECF No. 106, be denied.

Under the Federal Magistrates Act, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's

report to which no objections are filed.”). Although no review is required in the absence of objections, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court should review the recommendation for “clear error on the face of the record.”

In this case, Defendants have filed Objections. ECF No. 113. Plaintiff has filed a Response to Defendants’ Objections. ECF No. 114. The Court has reviewed the record, the F&R, and the Objections, and Response and finds no error. The F&R, ECF No. 111, is therefore ADOPTED. Defendants’ Motion for Summary Judgment, ECF No. 106, is DENIED.

It is so ORDERED and DATED this 27th day of June 2023.

s/ Ann Aiken
ANN AIKEN
United States District Judge